



Rep. Sue Scherer

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1 AMENDMENT TO HOUSE BILL 801

2 AMENDMENT NO. _____. Amend House Bill 801 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 12-2 and 12-3.05 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) Offense based on location of conduct. A person commits
9 aggravated assault when he or she commits an assault against an
10 individual who is on or about a public way, public property, a
11 public place of accommodation or amusement, or a sports venue.

12 (b) Offense based on status of victim. A person commits
13 aggravated assault when, in committing an assault, he or she
14 knows the individual assaulted to be any of the following:

15 (1) A physically handicapped person or a person 60
16 years of age or older and the assault is without legal

1 justification.

2 (2) A teacher or school employee upon school grounds or
3 grounds adjacent to a school or in any part of a building
4 used for school purposes.

5 (3) A park district employee upon park grounds or
6 grounds adjacent to a park or in any part of a building
7 used for park purposes.

8 (4) A peace officer, community policing volunteer,
9 fireman, private security officer, emergency management
10 worker, emergency medical technician, or utility worker:

11 (i) performing his or her official duties;

12 (ii) assaulted to prevent performance of his or her
13 official duties; or

14 (iii) assaulted in retaliation for performing his
15 or her official duties.

16 (5) A correctional officer or probation officer:

17 (i) performing his or her official duties;

18 (ii) assaulted to prevent performance of his or her
19 official duties; or

20 (iii) assaulted in retaliation for performing his
21 or her official duties.

22 (6) A correctional institution employee, a county
23 juvenile detention center employee who provides direct and
24 continuous supervision of residents of a juvenile
25 detention center, including a county juvenile detention
26 center employee who supervises recreational activity for

1 residents of a juvenile detention center, or a Department
2 of Human Services employee, Department of Human Services
3 officer, or employee of a subcontractor of the Department
4 of Human Services supervising or controlling sexually
5 dangerous persons or sexually violent persons:

6 (i) performing his or her official duties;

7 (ii) assaulted to prevent performance of his or her
8 official duties; or

9 (iii) assaulted in retaliation for performing his
10 or her official duties.

11 (7) An employee of the State of Illinois, a municipal
12 corporation therein, or a political subdivision thereof,
13 performing his or her official duties.

14 (8) A transit employee performing his or her official
15 duties, or a transit passenger.

16 (9) A sports official or coach actively participating
17 in any level of athletic competition within a sports venue,
18 on an indoor playing field or outdoor playing field, or
19 within the immediate vicinity of such a facility or field.

20 (10) A person authorized to serve process under Section
21 2-202 of the Code of Civil Procedure or a special process
22 server appointed by the circuit court, while that
23 individual is in the performance of his or her duties as a
24 process server.

25 (11) A nurse performing his or her duties.

26 (c) Offense based on use of firearm, device, or motor

1 vehicle. A person commits aggravated assault when, in
2 committing an assault, he or she does any of the following:

3 (1) Uses a deadly weapon, an air rifle as defined in
4 the Air Rifle Act, or any device manufactured and designed
5 to be substantially similar in appearance to a firearm,
6 other than by discharging a firearm.

7 (2) Discharges a firearm, other than from a motor
8 vehicle.

9 (3) Discharges a firearm from a motor vehicle.

10 (4) Wears a hood, robe, or mask to conceal his or her
11 identity.

12 (5) Knowingly and without lawful justification shines
13 or flashes a laser gun sight or other laser device attached
14 to a firearm, or used in concert with a firearm, so that
15 the laser beam strikes near or in the immediate vicinity of
16 any person.

17 (6) Uses a firearm, other than by discharging the
18 firearm, against a peace officer, community policing
19 volunteer, fireman, private security officer, emergency
20 management worker, emergency medical technician, employee
21 of a police department, employee of a sheriff's department,
22 or traffic control municipal employee:

23 (i) performing his or her official duties;

24 (ii) assaulted to prevent performance of his or her
25 official duties; or

26 (iii) assaulted in retaliation for performing his

1 or her official duties.

2 (7) Without justification operates a motor vehicle in a
3 manner which places a person, other than a person listed in
4 subdivision (b) (4), in reasonable apprehension of being
5 struck by the moving motor vehicle.

6 (8) Without justification operates a motor vehicle in a
7 manner which places a person listed in subdivision (b) (4),
8 in reasonable apprehension of being struck by the moving
9 motor vehicle.

10 (d) Sentence. Aggravated assault as defined in subdivision
11 (a), (b) (1), (b) (2), (b) (3), (b) (4), (b) (7), (b) (8), (b) (9),
12 (c) (1), or (c) (4) is a Class A misdemeanor, except that
13 aggravated assault as defined in subdivision (b) (4) and (b) (7)
14 is a Class 4 felony if a Category I, Category II, or Category
15 III weapon is used in the commission of the assault. Aggravated
16 assault as defined in subdivision (b) (5), (b) (6), (b) (10),
17 (b) (11), (c) (2), (c) (5), (c) (6), or (c) (7) is a Class 4 felony.
18 Aggravated assault as defined in subdivision (c) (3) or (c) (8)
19 is a Class 3 felony.

20 (e) For the purposes of this Section, "Category I weapon",
21 "Category II weapon, and "Category III weapon" have the
22 meanings ascribed to those terms in Section 33A-1 of this Code.
23 (Source: P.A. 96-201, eff. 8-10-09; 96-1000, eff. 7-2-10;
24 96-1109, eff. 1-1-11; 96-1398, eff. 7-29-10; 96-1551, eff.
25 7-1-11; 97-225, eff. 7-28-11; 97-313, eff. 1-1-12; 97-333, eff.
26 8-12-11; 97-1109, eff. 1-1-13.)

1 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

2 Sec. 12-3.05. Aggravated battery.

3 (a) Offense based on injury. A person commits aggravated
4 battery when, in committing a battery, other than by the
5 discharge of a firearm, he or she knowingly does any of the
6 following:

7 (1) Causes great bodily harm or permanent disability or
8 disfigurement.

9 (2) Causes severe and permanent disability, great
10 bodily harm, or disfigurement by means of a caustic or
11 flammable substance, a poisonous gas, a deadly biological
12 or chemical contaminant or agent, a radioactive substance,
13 or a bomb or explosive compound.

14 (3) Causes great bodily harm or permanent disability or
15 disfigurement to an individual whom the person knows to be
16 a peace officer, community policing volunteer, fireman,
17 private security officer, correctional institution
18 employee, or Department of Human Services employee
19 supervising or controlling sexually dangerous persons or
20 sexually violent persons:

21 (i) performing his or her official duties;

22 (ii) battered to prevent performance of his or her
23 official duties; or

24 (iii) battered in retaliation for performing his
25 or her official duties.

1 (4) Causes great bodily harm or permanent disability or
2 disfigurement to an individual 60 years of age or older.

3 (5) Strangles another individual.

4 (b) Offense based on injury to a child or intellectually
5 disabled person. A person who is at least 18 years of age
6 commits aggravated battery when, in committing a battery, he or
7 she knowingly and without legal justification by any means:

8 (1) causes great bodily harm or permanent disability or
9 disfigurement to any child under the age of 13 years, or to
10 any severely or profoundly intellectually disabled person;
11 or

12 (2) causes bodily harm or disability or disfigurement
13 to any child under the age of 13 years or to any severely
14 or profoundly intellectually disabled person.

15 (c) Offense based on location of conduct. A person commits
16 aggravated battery when, in committing a battery, other than by
17 the discharge of a firearm, he or she is or the person battered
18 is on or about a public way, public property, a public place of
19 accommodation or amusement, a sports venue, or a domestic
20 violence shelter.

21 (d) Offense based on status of victim. A person commits
22 aggravated battery when, in committing a battery, other than by
23 discharge of a firearm, he or she knows the individual battered
24 to be any of the following:

25 (1) A person 60 years of age or older.

26 (2) A person who is pregnant or physically handicapped.

1 (3) A teacher or school employee upon school grounds or
2 grounds adjacent to a school or in any part of a building
3 used for school purposes.

4 (4) A peace officer, community policing volunteer,
5 fireman, private security officer, correctional
6 institution employee, or Department of Human Services
7 employee supervising or controlling sexually dangerous
8 persons or sexually violent persons:

9 (i) performing his or her official duties;

10 (ii) battered to prevent performance of his or her
11 official duties; or

12 (iii) battered in retaliation for performing his
13 or her official duties.

14 (5) A judge, emergency management worker, emergency
15 medical technician, or utility worker:

16 (i) performing his or her official duties;

17 (ii) battered to prevent performance of his or her
18 official duties; or

19 (iii) battered in retaliation for performing his
20 or her official duties.

21 (6) An officer or employee of the State of Illinois, a
22 unit of local government, or a school district, while
23 performing his or her official duties.

24 (7) A transit employee performing his or her official
25 duties, or a transit passenger.

26 (8) A taxi driver on duty.

1 (9) A merchant who detains the person for an alleged
2 commission of retail theft under Section 16-26 of this Code
3 and the person without legal justification by any means
4 causes bodily harm to the merchant.

5 (10) A person authorized to serve process under Section
6 2-202 of the Code of Civil Procedure or a special process
7 server appointed by the circuit court while that individual
8 is in the performance of his or her duties as a process
9 server.

10 (11) A nurse performing his or her duties.

11 (e) Offense based on use of a firearm. A person commits
12 aggravated battery when, in committing a battery, he or she
13 knowingly does any of the following:

14 (1) Discharges a firearm, other than a machine gun or a
15 firearm equipped with a silencer, and causes any injury to
16 another person.

17 (2) Discharges a firearm, other than a machine gun or a
18 firearm equipped with a silencer, and causes any injury to
19 a person he or she knows to be a peace officer, community
20 policing volunteer, person summoned by a police officer,
21 fireman, private security officer, correctional
22 institution employee, or emergency management worker:

23 (i) performing his or her official duties;

24 (ii) battered to prevent performance of his or her
25 official duties; or

26 (iii) battered in retaliation for performing his

1 or her official duties.

2 (3) Discharges a firearm, other than a machine gun or a
3 firearm equipped with a silencer, and causes any injury to
4 a person he or she knows to be an emergency medical
5 technician employed by a municipality or other
6 governmental unit:

7 (i) performing his or her official duties;

8 (ii) battered to prevent performance of his or her
9 official duties; or

10 (iii) battered in retaliation for performing his
11 or her official duties.

12 (4) Discharges a firearm and causes any injury to a
13 person he or she knows to be a teacher, a student in a
14 school, or a school employee, and the teacher, student, or
15 employee is upon school grounds or grounds adjacent to a
16 school or in any part of a building used for school
17 purposes.

18 (5) Discharges a machine gun or a firearm equipped with
19 a silencer, and causes any injury to another person.

20 (6) Discharges a machine gun or a firearm equipped with
21 a silencer, and causes any injury to a person he or she
22 knows to be a peace officer, community policing volunteer,
23 person summoned by a police officer, fireman, private
24 security officer, correctional institution employee or
25 emergency management worker:

26 (i) performing his or her official duties;

1 (ii) battered to prevent performance of his or her
2 official duties; or

3 (iii) battered in retaliation for performing his
4 or her official duties.

5 (7) Discharges a machine gun or a firearm equipped with
6 a silencer, and causes any injury to a person he or she
7 knows to be an emergency medical technician employed by a
8 municipality or other governmental unit:

9 (i) performing his or her official duties;

10 (ii) battered to prevent performance of his or her
11 official duties; or

12 (iii) battered in retaliation for performing his
13 or her official duties.

14 (8) Discharges a machine gun or a firearm equipped with
15 a silencer, and causes any injury to a person he or she
16 knows to be a teacher, or a student in a school, or a
17 school employee, and the teacher, student, or employee is
18 upon school grounds or grounds adjacent to a school or in
19 any part of a building used for school purposes.

20 (f) Offense based on use of a weapon or device. A person
21 commits aggravated battery when, in committing a battery, he or
22 she does any of the following:

23 (1) Uses a deadly weapon other than by discharge of a
24 firearm, or uses an air rifle as defined in the Air Rifle
25 Act.

26 (2) Wears a hood, robe, or mask to conceal his or her

1 identity.

2 (3) Knowingly and without lawful justification shines
3 or flashes a laser gunsight or other laser device attached
4 to a firearm, or used in concert with a firearm, so that
5 the laser beam strikes upon or against the person of
6 another.

7 (g) Offense based on certain conduct. A person commits
8 aggravated battery when, other than by discharge of a firearm,
9 he or she does any of the following:

10 (1) Violates Section 401 of the Illinois Controlled
11 Substances Act by unlawfully delivering a controlled
12 substance to another and any user experiences great bodily
13 harm or permanent disability as a result of the injection,
14 inhalation, or ingestion of any amount of the controlled
15 substance.

16 (2) Knowingly administers to an individual or causes
17 him or her to take, without his or her consent or by threat
18 or deception, and for other than medical purposes, any
19 intoxicating, poisonous, stupefying, narcotic, anesthetic,
20 or controlled substance, or gives to another person any
21 food containing any substance or object intended to cause
22 physical injury if eaten.

23 (3) Knowingly causes or attempts to cause a
24 correctional institution employee or Department of Human
25 Services employee to come into contact with blood, seminal
26 fluid, urine, or feces by throwing, tossing, or expelling

1 the fluid or material, and the person is an inmate of a
2 penal institution or is a sexually dangerous person or
3 sexually violent person in the custody of the Department of
4 Human Services.

5 (h) Sentence. Unless otherwise provided, aggravated
6 battery is a Class 3 felony.

7 Aggravated battery as defined in subdivision (a)(4),
8 (d)(4), or (g)(3) is a Class 2 felony.

9 Aggravated battery as defined in subdivision (a)(3) or
10 (g)(1) is a Class 1 felony.

11 Aggravated battery as defined in subdivision (a)(1) is a
12 Class 1 felony when the aggravated battery was intentional and
13 involved the infliction of torture, as defined in paragraph
14 (14) of subsection (b) of Section 9-1 of this Code, as the
15 infliction of or subjection to extreme physical pain, motivated
16 by an intent to increase or prolong the pain, suffering, or
17 agony of the victim.

18 Aggravated battery under subdivision (a)(5) is a Class 1
19 felony if:

20 (A) the person used or attempted to use a dangerous
21 instrument while committing the offense; or

22 (B) the person caused great bodily harm or permanent
23 disability or disfigurement to the other person while
24 committing the offense; or

25 (C) the person has been previously convicted of a
26 violation of subdivision (a)(5) under the laws of this

1 State or laws similar to subdivision (a)(5) of any other
2 state.

3 Aggravated battery as defined in subdivision (e)(1) is a
4 Class X felony.

5 Aggravated battery as defined in subdivision (a)(2) is a
6 Class X felony for which a person shall be sentenced to a term
7 of imprisonment of a minimum of 6 years and a maximum of 45
8 years.

9 Aggravated battery as defined in subdivision (e)(5) is a
10 Class X felony for which a person shall be sentenced to a term
11 of imprisonment of a minimum of 12 years and a maximum of 45
12 years.

13 Aggravated battery as defined in subdivision (e)(2),
14 (e)(3), or (e)(4) is a Class X felony for which a person shall
15 be sentenced to a term of imprisonment of a minimum of 15 years
16 and a maximum of 60 years.

17 Aggravated battery as defined in subdivision (e)(6),
18 (e)(7), or (e)(8) is a Class X felony for which a person shall
19 be sentenced to a term of imprisonment of a minimum of 20 years
20 and a maximum of 60 years.

21 Aggravated battery as defined in subdivision (b)(1) is a
22 Class X felony, except that:

23 (1) if the person committed the offense while armed
24 with a firearm, 15 years shall be added to the term of
25 imprisonment imposed by the court;

26 (2) if, during the commission of the offense, the

1 person personally discharged a firearm, 20 years shall be
2 added to the term of imprisonment imposed by the court;

3 (3) if, during the commission of the offense, the
4 person personally discharged a firearm that proximately
5 caused great bodily harm, permanent disability, permanent
6 disfigurement, or death to another person, 25 years or up
7 to a term of natural life shall be added to the term of
8 imprisonment imposed by the court.

9 (i) Definitions. For the purposes of this Section:

10 "Building or other structure used to provide shelter" has
11 the meaning ascribed to "shelter" in Section 1 of the Domestic
12 Violence Shelters Act.

13 "Domestic violence" has the meaning ascribed to it in
14 Section 103 of the Illinois Domestic Violence Act of 1986.

15 "Domestic violence shelter" means any building or other
16 structure used to provide shelter or other services to victims
17 or to the dependent children of victims of domestic violence
18 pursuant to the Illinois Domestic Violence Act of 1986 or the
19 Domestic Violence Shelters Act, or any place within 500 feet of
20 such a building or other structure in the case of a person who
21 is going to or from such a building or other structure.

22 "Firearm" has the meaning provided under Section 1.1 of the
23 Firearm Owners Identification Card Act, and does not include an
24 air rifle as defined by Section 1 of the Air Rifle Act.

25 "Machine gun" has the meaning ascribed to it in Section
26 24-1 of this Code.

1 "Merchant" has the meaning ascribed to it in Section 16-0.1
2 of this Code.

3 "Strangle" means intentionally impeding the normal
4 breathing or circulation of the blood of an individual by
5 applying pressure on the throat or neck of that individual or
6 by blocking the nose or mouth of that individual.

7 (Source: P.A. 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
8 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-597, eff.
9 1-1-12; incorporates 97-227, eff. 1-1-12, 97-313, eff. 1-1-12,
10 and 97-467, eff. 1-1-12; 97-1109, eff. 1-1-13.)".